# USDA

## Nebraska Farm Service Agency

# Producer News

January 2010

### From the State Director

The Nebraska Farm Service Agency has completed another year of providing farm programs and loans to Nebraska agriculture. We now have most of the 2008 farm bill provisions and programs out and available for your use.

In October, FSA migrated to a central payment processing system. FSA was required by law to make this change. Most of you were paid your final 2009 Direct and Counter-cyclical Program direct payments and CRP annual rental payments timely. We still owe a few of you your payments. These delays are not the responsibility of your local FSA office. They are FSA's problem at the state and national level.

As you review your 2009 income, please pay special attention to verify that you received all of your payments on all of your farming interests. Our offices can assist you by providing computer generated 1099 reports and other assistance. As always, we work to provide you credit and a safety net for the benefit of agriculture.

Feel free to contact myself or our office with an issue after you have reviewed it with your local office. One more thing, if you have not switched to Direct Deposit, I suggest you do so now. It is faster, more accurate and it saves the federal government a little money.
Best wishes in 2010.

### Nebraska State FSA Committee

President Obama and Secretary of Agriculture Tom Vilsack have appointed the five-member State FSA Committee. They are:

Susan Frazier, Chairperson, from Fairmont, Nebraska
James Ziebarth, Member, from Wilcox, Nebraska
Leo Hoehn, Member, from Gering, Nebraska
Norma Hall, Member, from Elmwood, Nebraska
Fred Christensen, Member, from Lyons, Nebraska

These agricultural producers were selected to serve after considering factors including regional representation and types of farming operations (crops and livestock). The committee meets at least once a month to consider producer appeals, establish Nebraska program policies, and to provide input on national programs.

L to R: Norma Hall, Leo Hoehn, Fred Christensen, Susan Frazier and James Ziebarth

### Livestock Indemnity Program (LIP)

LIP is available to eligible livestock producers on farms that have incurred livestock death losses in excess of normal mortality because of eligible adverse weather events since July 13, 2009 for 2009 and during the 2010 calendar year. Eligible losses as determined by the Secretary include losses because of floods, blizzards, lightning, tornado, disease exacerbated by eligible adverse weather, wildfires, extreme heat, and extreme cold.

Producers must file a Notice of Loss with their county office within 30 days of the livestock loss. Producers who experience a livestock loss can call their local FSA office to report their Notice of Loss.

The LIP application, all supporting documentation of the livestock inventory, required proof of livestock death loss and producer signatures must be filed at the producer's county office no later than January 30 (February 1, 2010) of the year following the year of the livestock loss.

LIP payments will be based on 75% of a fair market value, as determined by the Secretary, for each specific livestock category and the individual producer's eligible losses.

## *Emergency Assistance for Livestock, Honey Bees, and Farm-raised Fish (ELAP) Program*

The ELAP program will provide emergency relief to producers of livestock, honey bees, and farm-raised fish because of feed loss, additional costs incurred, honey bee or farm-raised fish death losses after September 13, 2009 for 2009 and during 2010 from eligible adverse weather events, such as blizzards, tornados, floods, lightning and wildfires, as determined eligible by the Secretary for the claimed loss. To be eligible for the ELAP program, the producer must have purchased or enrolled in the following:

- an insurable crop on the farm, a policy or plan of insurance under the Federal Crop Insurance Act by the state's sales closing date
- non-insurable commodity on the farm filed the required paperwork and paid the fee by the applicable deadline for the Non-insured Crop Disaster Assistance Program (NAP).

The ELAP program is intended to cover disasters that are not adequately covered by any of the other disaster programs. Producers must file a Notice of Loss within 30 days after the loss event. The ELAP application and all supporting documentation must be filed no later than January 30 of the year following the year of loss.

## *Dairy Economic Loss Assistance Program*

The new Dairy Economic Loss Assistance Payment (DELAP) program was implemented on December 17, 2009. Payments were automatically provided to eligible dairy producers who were enrolled in the prior Milk Income Loss Program (MILC) anytime from February 2009 through July 2009. Any dairy producers who commercially marketed milk anytime between February 2009 and July 2009 and were not enrolled in the prior MILC program, may request DELAP payments until January 19, 2010 through their local county FSA office.

## *Milk Income Loss Contract Program*

The Food Conservation and Energy Act of 2008 provides provisions to extend the MILC Program from October 1, 2007 through September 30, 2012. The MILC Program Contract provides the enrolled eligible dairy operation the opportunity to receive payments for the pounds of milk marketed for the months the calculated milk prices are below the price levels established in the ACT. The initial enrollment period was available through January 2009. Late enrollment is available through September 2012, however late enrollment is not retroactive back to months prior to enrollment to receive benefits. Producers who have not yet enrolled should contact their county office to enroll.

The National Average Feed Dairy Feed Ration Cost per cwt. for each month will be used. If the cost is above a specified level, the MILC payment rate calculation will be increased by a calculated percentage and then compared to the Boston Class I milk price to determine if MILC payments will be provided to dairy operations with approved CCC-580 (MILC Contracts).

Eligible MILC producers must commercially market their milk produced during the marketing period. The limitation for the maximum quantity for payment per fiscal year is 2.985 million lbs. for the period of October 1, 2008 through August 31, 2012.

## *Signup for 2008 Crop Losses (SURE Program) Begins*

The Supplemental Revenue Assistance (SURE) program provides benefits for crop losses due to natural disasters occurring in the 2008 crop year. This program is revenue based which accounts for losses in both production quantity and quality, as well as price. Prior crop disaster programs dealt only with production losses and did not account for decreases in revenue. This program was authorized by the 2008 Farm Bill and is legislated through 2011.

For the SURE program, a producer's "farm" includes all acres of all crops in all counties. To be eligible, a producer must have at least part of their "farm" located within a Secretarial declared county, a contiguous county or you must have suffered at least a 50% loss of your actual production on the farm. To be eligible for payment, you must have suffered at least a 10% loss of production on at least one crop of economic significance in a declared or contiguous county.

This program does have a Risk Management Purchase Requirement which means that in order to receive benefits all crops of economic significance must have been covered by a crop insurance policy or through the Non-insurable Crop Disaster Assistance Program. (NAP). For 2008, producers were allowed to "Buy-In" or pay an administrative fee to meet this requirement as the program was not legislated until after the sales closing dates for coverage purchases.

Producers can begin making application for 2008 SURE program benefits on January 4, 2010. No ending date has been announced at this time. A SURE fact sheet is available on the National FSA Website at http://www.fsa.usda.gov.

## *Eligibility for the 2008 SURE Program*

Since there was a delay in announcing the requirements for the 2008 Supplemental Revenue Assistance Program (SURE), producers may not have been aware that all 2008 crops were required to be reported, in all counties they have an interest in, to maintain eligibility for the SURE program. This includes crops planted on cropland and/or non-cropland, including native or improved grass that will be hayed.

To allow producers to remain eligible for 2008 SURE, producers can now report any 2008 crops not previously reported. Late-filed fees shall be waived and physical evidence in the field is not required. Evidence of disposition of the crop must be provided.

Late filing of acreage reports for 2008 is only for SURE purposes and cannot be used to satisfy requirements for other program eligibility unless all late-filed provisions are met.

## *March 15 Non-insured Crop Assistance Program (NAP) Closing Date*

The Non-insured Crop Assistance Program (NAP) provides financial help to producers of non-insurable crops when a low yield, loss of inventory or prevented planting occurs because of natural disasters. NAP also provides coverage for crops when the catastrophic level of multi-peril insurance is not offered. NAP coverage may be required to be eligible for the permanent disaster programs as provided in the Food, Conservation, and Energy Act of 2008. Producers must apply for coverage using Form CCC-471, Application for Coverage, and pay the service fee at the county office. The application and service fee must be filed by March 15, the application closing date for alfalfa, mixed forage, grass, sorghum forage, and spring-seeded annual crops (vegetables, oats, and barley). The service fee is $250 per crop per county or $750 per producer per county. The fee cannot exceed a total of $1875 per producer with farming interests in multiple counties. Limited resource producers may request a waiver of service fees. To qualify, a producer must be a landowner, tenant, or sharecropper who shares in the risk of producing an eligible crop. In addition, the producer's non-farm Average Gross Income (AGI) can not exceed $500,000 for the 3 tax years preceding the most immediately completed taxable year. For 2010, the AGI would be based on tax years 2006, 2007, and 2008. A payment limitation of $100,000 per crop year is in effect.

## *2010 Direct and Counter-Cyclical (DCP) Program Signup*

The signup period for 2010 DCP enrollment has begun. The deadline to enroll farms in this program is June 1, 2010 with no late enrollment period. Advance direct payments are available at a level of 22% of the total direct payments for the farm. During DCP signup, producers may elect the ACRE option for 2010-2012 on specific farms. As a reminder, farms that elected and enrolled into the ACRE option in 2009, must still enroll into a DCP/ACRE contract for 2010 and following years. Producers are encouraged to contact their county office to schedule an appointment. A DCP fact sheet is available on the National FSA Website at http://www.fsa.usda.gov.

## *Average Crop Revenue Election (ACRE) Program*

ACRE is a revenue based option available within the Direct and Counter-cyclical Program (DCP) that replaces the price based counter-cyclical payments. Please note revenue addresses both production and price for a crop. This option was legislated in the 2008 Farm Bill and first became available in 2009. Once elected, this option is not revocable through 2012. In addition, this option requires the agreement of all owners and tenants on the farm. In 2009, just over 16,000 farms were enrolled in ACRE in Nebraska which was 19% of the farms enrolled in DCP. Producers have the opportunity again in 2010 to elect and enroll into this option on farms in the DCP program.

This program option has two triggers that must be met before ACRE payments are generated. The first trigger is at the state level and requires that the actual state revenue is less than the state guarantee. The second trigger is at the farm level and requires that the actual farm revenue is less than the farm guarantee. Again both triggers must be met before ACRE payments are generated.

One difference between the ACRE option and the Counter-Cyclical (CC) provisions is the threshold price that is used to determine benefits. For example, when corn has normal yields, CC payments begin once the National Average Market Price falls below $2.35/bu. while ACRE payments begin to trigger at $3.72/bu. Essentially this option allows a higher safety net. This higher safety net does come with a 20% reduction in DCP direct payments and a 30% reduction in commodity loan rates for production from ACRE enrolled farms.

Another difference between the ACRE option and the CC provisions is how the payments are calculated. Under the CC provisions, crop base acres are used to calculate payments while the ACRE option uses the actual planted acres of a crop, not to exceed the total base acres on the farm. For example if enrolled in DCP, a farm with 60 acres of wheat base and 40 acres of soybean base could plant 80 acres to wheat and 20 acres to soybeans. If CC payments were available for soybeans and not wheat, the soybean CC payment would be calculated on the 40 acres of soybean base. If enrolled in ACRE, in this example, and ACRE payments were triggered for both wheat and soybeans, the ACRE payments would be calculated using the 80 acres of planted wheat and 20 acres of planted soybeans.

For farms enrolled in ACRE for 2009, county FSA offices will be working with producers over the next several months to establish the farm benchmark yield which is used to set the farm guarantee. This benchmark yield is based on 2004 thru 2008 production records or the use of a county yield. In addition, the 2009 actual farm production will need to be provided to county offices for enrolled farms. An ACRE fact sheet is available on the National FSA Website at http://www.fsa.usda.gov.

## *Wool, Mohair Loans*

The final loan availability date to request a marketing assistance loan or loan deficiency payments for wool, mohair and unshorn pelts is January 31 of the year following the year in which the commodity was sheared or the unshorn lamb was slaughtered. That means you have until January 31, 2010 to request loans or LDPs for 2009 crop wool and mohair that has not been marketed and remain in storage. To be eligible for a loan or LDP, the producer must:

- Meet the definition of an eligible producer by 1) reporting crop acreages if associated with a farm that has cropland, 2) complying with highly erodible and wetland provisions and 3) complying with payment eligibility and adjusted gross income provisions.
- Own the sheep or goats that produce the wool and mohair for a period of not less than 30 calendar days before shearing, or in the case of unshorn lambs, 30 days prior to slaughter of the lambs.
- For unshorn pelt LDPs only, sell the unshorn lamb for immediate slaughter or slaughter the unshorn lamb for personal use.
- Have submitted to FSA page 1 of the CCC-633 EZ before beneficial interest in the commodity was lost if requesting an LDP.

## *Marketing Assistance Loans, LDPs*

Marketing assistance loans and loan deficiency payments can mean the difference between a good year and a not-so-good year for producers. With that in mind, it’s important to comply with the rules. To be eligible for loans and LDPs, producers must:

- comply with conservation and wetland protection requirements
- report how they use their cropland acreage on the farm
- have beneficial interest in the commodity on the date the loan or LDP is requested and, in the case of a loan,

retain beneficial interest while the loan is outstanding
- ensure that the commodity meets CCC minimum grade and quality standards.

Beneficial interest means the producer retains control, which allows them the ability to make day-to-day decisions about the commodity and has title to the commodity. Once beneficial interest in a commodity is lost, the commodity is ineligible for loan or LDP, even if the producer regains beneficial interest.

For commodities to be eligible for loans or LDPs, they must have been produced by an eligible producer, be in existence and in a storage condition and be merchantable as determined by CCC. Producers must maintain the quality of the commodity in farm storage throughout the term of the loan.

Substituted grain is not eligible for price support. If a commodity a producer wants to pledge as collateral for loan or LDP is not the grain produced and harvested by the eligible producer, but was merely exchanged for a quantity of the commodity produced and harvested by the eligible producer, it is ineligible for price support because it is a substitution. Another example would be where grain is shipped direct delivery off the farm and not dumped at the warehouse but the producer is given a storage position at the elevator. Since the grain is not physically deposited at the warehouse, it would be considered substitution and be ineligible for price support.

For the 2009-2012 crop, individuals and entities whose previous three-year average adjusted gross non-farm income exceeds $500,000 are ineligible for LDPs and market loan gains. Participation of farm(s) in the ACRE program will require a separate loan with a 30% reduction in the loan rate for ACRE enrolled farm(s).

## Adjusted Loan Availability Date

Producers, remember you remain eligible to obtain loans or receive price support on all or part of your eligible production anytime during the loan availability period if you maintain beneficial interest. The loan availability period runs from when the commodity is normally harvested (or sheared for wool and mohair) (extracted for honey) until specified dates in the following calendar year. For small grains and 2009 honey, the final loan-LDP availability date is March 31, 2010 and for feed grains and soybeans it is May 31, 2010.

## Adjusted Gross Income Provisions

Adjusted Gross Income (AGI) requirements must be met by an individual or entity requesting applicable FSA program benefits, as well as all members of that entity or joint operation. Payments to an entity will be reduced by the commensurate share of any member that is not in compliance with applicable AGI limitations. AGI is evaluated by considering the average of the three tax years preceding the most immediately preceding complete taxable year (i.e., for 2010 average AGI, calculate the average AGI for 2008, 2007 and 2006). Eligibility for FSA program benefits will be subject to the following limitations:

- If average *non-farm* AGI exceeds $500,000, an individual or entity is ineligible for all commodity program payments. This includes payments issued under DCP/ACRE, NAP, the permanent disaster programs (SURE, LIP, LFP, ELAP) and price support programs.
- If average *farm* AGI exceeds $750,000, an individual or entity is ineligible for DCP direct payments only.
- If average *non-farm* AGI exceeds $1,000,000, an individual or entity is ineligible for all conservation program benefits unless at least 66.66% of their total average AGI is from farming, ranching or forestry.

A new adjusted gross income certification must be filed each year. Participants should carefully evaluate their 2010 compliance with AGI limitations before certifying these provisions are met.

## FSA Program Payment Limitation-2010

The following annual program payment limitations apply for 2010 and subsequent years:

| Program | Limit | Program | Limit |
|---|---|---|---|
| DCP Direct | $40,000 | SURE, LIP, LFP, ELAP | $100,000 (combined limitation) |
| DCP-Counter-cyclical & ACRE | $65,000 | CRP – annual rental | $50,000 |
| NAP | $100,000 | TAP | $100,000 |

Price support program benefits including Loan Deficiency Payments and Market Gains are no longer subject to a program payment limitation.

Program benefits subject to limitations cannot be issued until all required forms are provided and necessary payment eligibility/limitation determinations are made.

Payments are limited in two ways – by considering the direct payments made to the program participant, and also by direct attribution. Through direct attribution, each payment made to an entity shall be attributed to those individuals who have a direct or indirect ownership interest in the entity. There is no limit on the number of entities through which an individual can receive payments. Payments to an entity will be limited if either the entity or its members reach a program limitation.

Spouses will each have two separate payment limitations. Each spouse participating in FSA programs must meet all payment eligibility criteria. A significant contribution of active personal labor or active personal management qualifying one spouse as "actively engaged in farming" will also qualify the other spouse for payments requested relating to the same farming operation.

Several other FSA payment eligibility rules apply, including actively engaged in farming, cash rent tenant, substantive change, and commensurate share requirements. Participants are responsible for notifying county offices of any changes in their farming operation from previous years. Entities earning program benefits subject to a limitation must provide FSA the names, addresses, and tax identification numbers of all members. Participants should contact their local county FSA office for additional information.

## *FSA Farm Loans Available*

Direct Operating Loans and Farm Ownership Loans – Farmers and Ranchers may obtain up to $300,000 for their operation. This includes annual operating and family living expenses, machinery, or breeding livestock purchases, refinance most operating type debts and real estate improvements or repairs for operating loans. Producers can also obtain up to $300,000 to purchase real estate and real estate improvements or repairs. The interest rate as of January 1, 2010 is 2.875 percent for Operating Loans and 4.75 percent for Farm Ownership. Loans for real estate can be amortized for up to 40 years and for chattels up to 7 years.

Direct Farm Ownership Down Payment Loan Program – The purpose of the program is to provide credit for beginning farmers and ranchers and socially disadvantaged farmers and ranchers to purchase real estate. The applicant must place 5% down; FSA will provide 45% of the purchase price up to a maximum of $225,000. The balance of the purchase price will be obtained from a conventional lender or seller financing. The interest rate as of January 1, 2010 is 1.5% fixed for the term of the loan which will be 20 years for the down payment loan program.

In order to qualify you must be a beginning farmer/rancher or a socially disadvantaged farmer/rancher. A beginning farmer/rancher must have been farming/ranching for at least 3 years and not more then 10 years. A beginning farmer/rancher cannot own real estate that exceeds 30% of the median farm size for the county. A socially disadvantaged applicant is one of a group whose members have been subjected to racial, ethnic, or gender prejudice because of his or her identity as a member of the group without regard to his or her individual qualities. SDA groups are women, African Americans, American Indians, Alaskan natives, Hispanics, Asian Americans and Pacific Islanders.

Guaranteed Operating Loans and Farm Ownership Loans – Farmers and ranchers may obtain up to $1,112,000 in Guaranteed Farm Ownership and /or Farm Operating Loans. Funds can be used to purchase or enlarge a farm, refinance debt or for most operating uses. Under this program your local lender makes the loan and FSA provides a guarantee of up to 95% (depends on the circumstances) on the loan. This allows your local lender to continue to help you even if you are experiencing a decline in your financial condition. The interest rate is negotiated with the lender but should not exceed the interest rate charged to their average customers. You could qualify for Interest Assistance (4% rate reduction) if your cash flow and financial statements show the need. Loans for real estate can be amortized for up to 40 years and for chattel up to 7 years. Contact your local commercial lenders who participate in the guaranteed loan program. Local FSA Service Centers have lists of participating lenders.

## *Farm Storage Facility Loan Program Available to Build or Upgrade on Farm Commodity Storage Facilities*

Effective August 17, 2009, changes to the Farm Storage Facility Loan (FSFL) Program were implemented in accordance with the 2008 Farm Bill. These changes include increases to the maximum FSFL loan amount, longer loan repayment terms, and the inclusion of hay, biomass, and fruit and vegetables as eligible FSFL commodities. This low interest loan program is available to producers of eligible commodities to help build or upgrade their on-farm commodity storage and handling facilities. Some of the program details include:

- Eligible commodities such as:
  - Corn, grain sorghum, rice, soybeans, oats, peanuts, wheat, barley or minor oilseeds harvested as whole grain
  - Corn, grain sorghum, wheat, oats or barley harvested as other-than whole grain
  - Pulse crops – lentils, small chickpeas and dry peas
  - Hay
  - Renewable biomass
  - Fruits (including nuts) and vegetables – cold storage facilities
- The maximum loan amount is 85% of the net cost of the facility, not to exceed $500,000 per loan.
- The loan term will be for 7, 10 or 12 years depending on the loan amount.
- The interest rate will be fixed for the term of the loan. The interest rate for FSFLs approved in January 2010 will be 2.875% for a 7 year term; 3.375% for a 10 year term; and 3.75% for a 12 year term.
- A down payment of 15% is required.
- Producers are required to carry property insurance on the storage facility and also crop insurance for the term of the loan.
- Loans over $50,000 require real estate to be taken for security.
- Eligible bushel capacity is limited to 2 years of pro duction minus the applicant's current available storage, (except fruit and vegetable storage facilities are limited to 1 year of production minus the applicant's current available storage).
- There is a $100 non-refundable application fee per applicant.
- Eligible facilities include conventional grain bins designed for whole grain storage; oxygen limiting structures designed for whole grain wet storage and silage; concrete bunker silos; flat storage structures designed for whole grain, hay, or biomass storage; and cold storage buildings designed for fruit and vegetable storage. Permanently affixed handling and drying equipment, safety equipment (ex. ladders), electrical equipment, concrete foundations, site preparation, materials and paid labor, are also eligible.
- Used equipment, portable dryers, scales, structures of temporary nature, or structures used for commercial purposes are not eligible.
- Construction of the storage facility can not begin until after the FSFL application has been submitted to FSA and the loan has been approved.

Producers are encouraged to contact their local FSA office for additional information about the Farm Storage Facility Loan Program.

## *Socially Disadvantaged Farmers*

FSA has a number of loan programs available to assist applicants to begin or continue in agriculture production. Loans are available for operating type loans and/or purchase or improvements of farms or ranches.

While all qualified producers are eligible to apply for these loan programs, the FSA has provided priority funding for members of socially disadvantaged applicants. A socially disadvantaged applicant is one of a group whose members have been subjected to racial, ethnic or gender prejudice because of his or her identity as members of the group without regard to his or her individual qualities. For purposes of this program, socially disadvantaged groups are women, African Americans, American Indians, Alaskan Natives, Hispanics, Asian Americans, and Pacific Islanders. If producers or their spouses believe they would qualify as socially disadvantaged, they should contact their local FSA office for details. FSA loans are only available to applicants who meet all the eligibility requirements and are unable to obtain the needed credit elsewhere.

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## Nebraska Farm Service Agency

State Committee

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Norma Hall, Member
Leo Hoehn, Member
James Zierbarth, Member

Dan Steinkruger, State Executive Director
Mike Sander, Admininstrative Officer
Rich Barta, Farm Loan Chief
Cathy Anderson, Production & Compliance Programs
Greg Reisdorff, Conservation & Environmental Programs
Doy Unzicker, Price Support Programs

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## *Dates to Remember*

**Jan. 4, 2010**
SURE Sign-up Begins

**Jan. 18, 2010**
Birthday of Martin Luther King, Jr. Holiday. FSA offices closed.

**Feb. 15, 2010**
George Washington's Birthday Holiday. FSA offices closed.

**Mar. 15, 2010**
NAP application deadline for alfalfa, grass, mixed forage, sorghum forage, and spring-seeded annual crops (vegetables, oats and barley)

## *Nebraska FSA Website*

Producers are encouraged to visit the Nebraska FSA website for current program information, newsletters and news releases. Visit the site at: http://www.fsa.usda.gov/FSA/stateoffapp?mystate=ne&area=home&subject=landing&topic=landing